

have 100 or fewer employees. This final rule would expand eligibility to about 60 additional firms. Since over the last two years only one loan was guaranteed to a computer wholesaler with more than 50 employees, it is unlikely that this rule would expand the use of the 7(a) Program.

Newly defined small businesses would also benefit from the SBA's economic injury disaster loan program. Since this program is contingent upon the occurrence and severity of a disaster, no meaningful estimate of benefits can be projected.

The SBA estimates that 192 currently defined small businesses (those firms that qualify as a nonmanufacturer under a 500 employee size standard) would lose small business status and not be eligible businesses for Federal small business procurement preference programs. The benefits of the rule in Federal contracting will be in terms of clarifying requirements on Federal contracts combining IT supplies and services and increasing Federal procurement opportunities for small businesses that are much smaller than 500 employees. It is uncertain how much additional contracting may go to the small businesses with 150 or fewer employees. The SBA expects many of the Federal contracts obtained by ITVARs between 151 to 500 employees would be awarded to the smaller small businesses. This is estimated to be between \$10 million to \$25 million annually.

This rule is not expected to increase administrative costs to the Federal Government associated with bidders for Federal small business procurement programs, additional firms seeking SBA guaranteed lending programs, and firms eligible for enrollment in SBA's PRO-Net data base program. For the limited number of businesses affected by this rule, it is unlikely to materially change the costs associated with compliance and verification of small business status and protests of small business status, since mechanisms are currently in place to handle these administrative requirements.

The costs to the Federal Government may be higher on some Federal contracts as a result of this rule. With a more appropriate contract requirement for IT value added service, Federal agencies may choose to set aside more contracts for competition among small businesses rather than using full and open competition. The movement from unrestricted to set aside is likely to result in competition among fewer bidders for a contract. The additional costs associated with fewer bidders, however, are likely to be minor since, as

a matter of policy, procurements may be set aside for small businesses or under the 8(a) and HUBZone Programs only if awards are expected to be made at fair and reasonable prices.

The final size standard may have distributional effects among currently defined small businesses and the newly defined small businesses. Although the actual outcome of the gains and losses among these small businesses cannot be estimated with certainty, it is likely that a transfer of some Federal contracts from small businesses above 150 employees to those under 150 employees. An analysis of Federal ITVAR contracts for fiscal years 2001–02 showed about \$57 million was awarded to small ITVARs of about 200 employees to 500 employees. Of these contracts, \$23 million was awarded under the 8(a) Program to firms within that size range. If contracting officers continued with about the same level of 8(a) contracting and decided to set-aside additional ITVAR contracts, \$10 million to \$25 million annually could be shifted from small ITVARs above 150 employees to those with less than 150 employees.

The creation of an ITVAR industry category and size standard is consistent with SBA's statutory mandate to assist small businesses. This regulatory action promotes the Administration's objectives. One of the SBA's goals in support of the Administrator's objectives is to help individual small businesses succeed through fair and equitable access to capital and credit, government contracts, and management and technical assistance. Reviewing and modifying size standards when appropriate ensures that intended beneficiaries have access to small business programs designed to assist them. Size standards do not interfere with State, local, and tribal governments in the exercise of their government functions. In a few cases, State and local governments have voluntarily adopted the SBA's size standards for their programs to eliminate the need to establish an administrative mechanism for developing their own size standards.

Final Regulatory Flexibility Analysis

Under the Regulatory Flexibility Act (RFA), this rule may have a significant impact on a substantial number of small entities. Immediately below, the SBA sets forth a final regulatory flexibility analysis (FRFA) of this proposed rule addressing the reasons and objectives of the rule; the SBA's description and estimate of the number of small entities to which the rule will apply; the projected reporting, record keeping, and other compliance requirements of the

rule; the relevant Federal rules which may duplicate overlap or conflict with the final rule; and alternatives considered by the SBA.

(1) What is reason for this action?

As discussed in the supplemental information, the purpose of this final rule is to establish more reasonable and eligibility requirements and size standard for Federal IT contracts that combine the acquisition of computer equipment and services. The adopted changes will better assist small ITVARs in obtaining Federal contracts.

(2) What is the objective and legal basis for the rule?

Section 3(a) of the Small Business Act (15 U.S.C. 632(a)) gives SBA the authority to establish and change size standards. Size standards are developed on an industry basis and vary by industry to reflect differing characteristics of firms in an industry or other appropriate factors regarding an industry. This rule establishes an industry category of ITVAR that SBA believes is necessary to appropriately apply its small business assistance program to small businesses in this category.

(3) What is SBA's description and estimate of the number of small entities to which the rule will apply?

SBA estimates that approximately 1,737 small businesses could receive assistance as a result of this proposed rule. In SBA's PRO-Net data base, 1,760 businesses indicated that they are wholesalers of IT equipment and are capable of providing some other services. All but 23 of these firms have 150 or fewer employees. It cannot be determined how many could actually meet the requirements of the ITVAR definition. Thus, the actual number of affected businesses is likely to be smaller. A few small computer manufacturers could be adversely affected by this rule since small business set-aside, 8(a), or HUBZone contracts classified under the ITVAR industry would not apply the nonmanufacturer rule. However, the SBA believes the impact would be minimal since the ITVAR contracts are most likely not currently being awarded to small manufacturers under these programs.

Description of Potential Benefits of the Rule: The most significant benefit to businesses obtaining small business status as a result of this rule is their eligibility for Federal small business assistance programs. These include SBA's financial assistance programs and Federal procurement preference